

## **REMARKS**

Applicants thank Examiner Hai Vo for the courtesies extended to the undersigned during the telephone interview of November 8, 2004, at which time the issues raised by paragraph 5 of the Office Action mailed October 15, 2004, (hereinafter also referred to as the "current Office Action") were discussed. In particular independent claims 4, 16, 21, 23 and 49 were discussed. A summary of the telephone interview prepared by Examiner Ho is found in the Interview Summary and is discussed below. The summary of the telephone interview as recalled by the undersigned is presented below.

Claims 4, 7 – 13, 15 – 25, 29 – 39 and 41 – 53 are in the instant application. Claims 22 and 52 are allowed; claim 50 is objected to, and the remaining claims in the application are rejected. Applicants by this amendment have amended claims 29 and 49 to more positively recited the embodiments of their patentably novel restraint recited in claims 29 and 49.

Regarding claim 29, claim 29 is directly dependent on claim 49 and was amended to positively recite a restraint having, among other things, a plastic member and a layer secured to each other according to at least one of the following techniques (a) the plastic member and the layer are separately formed and then laminated together by an adhesive, (b) the plastic member and the layer are separately formed and then laminated together by mechanical fasteners, and (c) a molding process. Support for the amendment to claim 29 is found, among other places, on page 8, lines 7 – 23, of the specification.

Based on the foregoing, applicants respectfully request admission and consideration of claim 29.

Paragraph 1 of the Office Action states that all the art rejections are withdrawn in view of the present amendment and response, however, upon further consideration, a new ground(s) of rejection is made under 35 U.S.C. 112, first paragraph. Paragraph 2 of the Office Action states that the indicated allowability of claims 4 and 22 is withdrawn in view of rejections under 35 U.S.C. 112, first paragraph. Paragraph 3 of the Office Action states that the claim objections are withdrawn in view of the present amendment.

Applicants acknowledge that the amendment filed July 26, 2004, (mailed on behalf of applicants on July 21, 2004) overcame all of the art rejections, and the claim objections, made in the Office Action mailed May 4, 2004. Applicants note that paragraph 2 of the current Office Action states that the allowability of claim 22 is withdrawn; however, applicants further note that claim 22 is indicated allowable in paragraph 7 of the current Office Action and is not rejected in any of the paragraphs of the current Office Action rejecting claims. Based on the foregoing, applicants are proceeding with the understanding that claim 22 remains allowed. In the event, claim 22 is rejected; applicants respectfully request the opportunity to identify the patentable features of claim 22. In view of the foregoing, applicants are reading paragraph 2 of the current Office Action as indicating that the allowability of claim 4 is withdrawn in view of the rejections under 35 U.S.C. 112, first paragraph. Applicants respectfully traverse the withdrawal of the allowability of claim 4.

Claims 4, 7 – 13, 15 – 21, 23 – 25, 29 – 39, 41 – 49, 51 and 53 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The Office Action alleges that the claims contain subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the invention(s), at the time the application was filed, had possession of the claimed invention. The Office Action continues by alleging that in this case support for a layer of a compressive resilient material secured to the inner surface of the member at the vertex and extending from the vertex toward end of the first leg and from the vertex toward end of the second leg is not found in Applicant's specification. The Office Action concludes by alleging that nothing in the specification and the drawings as well show that the ends of the inner layer and the outer layer of the laminated substantially L-shaped packing restraint are not aligned with one to another.

Applicants respectfully traverse the rejection of Claims 4, 7 – 13, 15 – 21, 23 – 25, 29 – 39, 41 – 49, 51 and 53 under 35 U.S.C. 112, first paragraph, and request reconsideration thereof. Independent claim 4 has claims 42 – 48

either directly or indirectly dependent thereon; independent claim 16 has claims 17 – 20 and 51 either directly or indirectly dependent thereon; independent claim 21 has claims 31 – 38 either directly or indirectly dependent thereon; independent claim 23 has claims 24, 25 and 53 either directly or indirectly dependent thereon, and independent claim 49 has claims 7 – 13, 15, 29, 30, 39, 41 and 50 either directly or indirectly dependent thereon.

The undersigned during the telephone interview stated to Examiner Ho that claims 4, 16, 21 and 23 do not recite that "a layer of a compressive resilient material secured to the inner surface of the member at the vertex and extending from the vertex toward end of the first leg and from the vertex toward end of the second leg", and therefore there is no basis to reject claims 4, 16, 21 and 23 under 35 U.S.C. 112, first paragraph. The Interview Summary states that the examiner agrees that the specification does not describe where the inner layer is ended along the outer layer, i.e. shorter or beyond the length of the outer layer. The undersigned stated during the telephone interview that the relationship of the end of the inner layer to the end of the outer layer is not a limiting feature of the invention and therefore, does not have to be recited in the claims. More particularly claims 4, 16, 21 and 23 are patentable over the art and recited additional limitations in the claims are not required to patentably distinguish the subject matter of claims 4, 16, 21 and 23 over the art. Further, the undersigned directed attention to Figs. 1, 3 and 4. Fig. 1 shows the end of the inner and outer layers aligned with one another; Fig. 3 shows the end of the outer layer with a mitered end and the inner layer with a flat end, and Fig. 4 shows the inner layer beyond the outer layer when the restraint is secured to a glass pack.

The interview Summary states that the undersigned agrees to delete the recitation "extending from the vertex toward end of the first leg and from the vertex toward end of the second leg" in claim 49 because such feature is not specifically described in the specification. The undersigned's recollection is that he agreed to cancel the phrase "extending from the vertex toward end of the first leg and from the vertex toward end of the second leg" because the

feature is not required to patentably distinguish claim 49 over the art, and to eliminate the issue. The undersigned is of the opinion that the specification taken as a whole does teach one skilled in the art the feature of "a layer of a compressible resilient material secured to the inner surface of the member at the vertex and extending from the vertex toward end of the first leg and from the vertex toward end of the second leg."

As agreed during the telephone interview, claim 49 is amended to recite, among other things, that "a layer of a compressible resilient material" is "secured to portions of the inner surface of the member on each side of the vertex."

Support for the amendment to claim 49 is found, among other places, in Figs. 1 – 3 and 6. Based on the foregoing, applicants respectfully request admittance of the amendment to, and consideration of claim 49. Further, based on the foregoing, applicants respectfully request withdrawal of the rejection of claims 4, 7 – 13, 15 – 21, 23 – 25, 29 – 39, 41 – 49, 51 and 53 under 35 U.S.C. 112, first paragraph, and request allowance of claims 4, 7 – 13, 15 – 21, 23 – 25, 29 – 39, 41 – 49, 51 and 53.

Paragraph 6 of the current Office Action states that claim 50 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in current Office Action and to include all of the limitations of the base claim and any intervening claims. Applicants respectfully submit that the current Office Action has no rejection of any claims under 35 U.S.C. 112, second paragraph. Claim 50 is dependent on claim 49, which as discussed above is rejected under 35 U.S.C. 112, first paragraph. Further as discussed above, claim 49 is amended to overcome the rejection under 35 U.S.C. 112, first paragraph.

Based on the foregoing, applicants respectfully request allowance of claim 50.

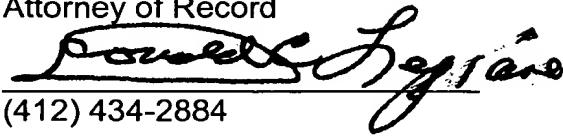
Applicants note that the current Office Action in paragraphs 8 and 9 identifies patentable differences in the subject matter of the claims to patentably distinguish the claims over the art of record. Applicants

respectfully submit that additional differences are presented in the earlier amendments filed in the instant application by applicants.

This amendment represents a sincere effort to place the application in condition for allowance. In the event issues remain, the Examiner is invited to call the undersigned to discuss those issues before further action is taken on the case.

Respectfully submitted,

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